UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,687	08/25/2003	Ajay Joseph	IB-0010P1	9968

34610   7590   11/06/2008
KED & ASSOCIATES, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

EXAMINER
PHAN, MAN U

ART UNIT	PAPER NUMBER
2419	

MAIL DATE	DELIVERY MODE
11/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _18 August 2008_.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-18_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-4, 6-18_ is/are rejected.
7) ☒ Claim(s) _5_ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to applicant's 08/18/2008 Amendment in the

application of Joseph et al. for a "System and method for VoIP and facsimile over IP (FoIP)

calling over the Internet" filed 08/25/2003.   This application is a CIP of 10/298,208 filed

11/18/2002, which claims priority from provisional application 60/331,479 filed 11/16/2023, and

is a CIP of 10/094671 filed 03/07/2002. This application is a Request for Continued

Examination (RCE) under 37 C.F.R. 1.114 filed on August 18, 2008. The amendment and

response has been entered and made of record.   Claims 1-18 are pending in the application.

2.   The applicant should use this period for response to thoroughly and very closely proof read

and review the whole of the application for correct correlation between reference numerals in the

textual portion of the Specification and Drawings along with any minor spelling errors, general

typographical errors, accuracy, assurance of proper use for Trademarks ^{TM}, and other legal

symbols @, where required, and clarity of meaning in the Specification, Drawings, and

specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each

claim). Minor typographical errors could render a Patent unenforceable and so the applicant is

strongly encouraged to aid in this endeavor.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of
> this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter

as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5.   Claims 1-4, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fangman et al. (US#7,068,646) in view of White et al. (US#6,711,241).

With respect to claims 14-16, the references disclose method and system for routing voice calls over VoIP networks, according to the essential features of the claims. Fangman et al. (US#7,068,647) discloses in Fig. 3B a block diagram illustrated an IP telephony network, in which the Media Gateway Controller is operable to couple to the first Media Gateway and the second Media Gateway through the network. In one embodiment, the Media Gateway Controller may receive a Call Setup request, where the Call Setup request may include a source IP address and a destination telephone number. The Media Gateway Controller may select a first Media Gateway based on the source IP address, and a second Media Gateway based on the destination telephone number. The Media Gateway Controller may compare a public IP address of the first Media Gateway to a public IP address of the second Media Gateway, and if the public IP address of the first Media Gateway is the same as the public IP address of the second Media Gateway,

may select a private IP address of the first Media Gateway and a private IP address of the second

Media Gateway for Call Setup. Note that if the public IP addresses of the Media Gateways are

the same, then they are internal to the system. If the public IP address of the first Media Gateway

is not the same as the public IP address of the second Media Gateway, the Media Gateway

Controller may select the public IP address of the first Media Gateway and the public IP address

of the second Media Gateway for Call Setup. This describes a case when a call session is

between an internal IP telephone (e.g., the first Media Gateway), and an external device, such as

a telephone, communicating through a Trunking Gateway (e.g., the second Media Gateway).

Thus, in one embodiment, the first Media Gateway and the second Media Gateway may each

include one of an IP telephone or a Trunking Gateway, where the Trunking Gateway includes an

interface to the Public Switched Telephone Network (PSTN) (Col. 3, lines 33 plus and Col. 4,

lines 51 plus).

However, Fangman does not expressly disclose the step wherein the header data is

configured to ensure that if a call setup attempt fails, the data packets containing the call setup

request will be returned to a source gateway. In the same field of endeavor, White et al.

(US#6,711,241) teaches in Fig. 5 a flow diagram illustrated one mode of operation of the system,

in which at step 150, the LEC 114 determines whether the local loop 123 and telephone 116

corresponding to that number are busy. If the line is busy a busy signal is returned to the gateway

router 116 at 152. At 154 the gateway router receives that information, assembles an appropriate

TCP/IP packet and dispatches the packet through the Internet addressed to the origination or

source gateway router 104. At 156 the gateway router 104 disassembles that packet and sends an

appropriate signal to the calling end office 105 and calling telephone 100 (Col. 9, lines 49 plus).

Regarding claims 1-4, 10-13, they are method claims corresponding to the system

claims above. Therefore, claims 1-5, 10-13 are analyzed and rejected as previously discussed

with respect to the claims above.

One skilled in the art would have recognized the need for efficiently routing IP packets in

VoIP utilizing service gateway, and would have applied White's teaching of telephone service

via the Internet to users of the public telecommunications network into Fangman's novel use of a

system and method for IP telephony including internal and external call sessions. Therefore, It

would have been obvious to a person of ordinary skill in the art at the time of the invention was

made to apply White's internet telephone service into Fangman's system and method for

performing IP telephony including internal and external call sessions with the motivation being

to provide a method and system for routing voice calls over the diverse networks.

6.   Claims 6-9 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Fangman et al. (US#7,068,646) in view of White et al. (US#6,711,241) as applied to the claims

above and further in view of Sasagawa et al. (US#6,914,898).

Regarding claims 17-18, Fangman et al. (US#7,068,646) and White et al. (US#6,711,241)

disclose the claimed limitations discussed in paragraph 8 above. However, these claims differ

from the claims above in that the claims requires wherein the source gateway is configured to

insert header data packets containing the call setup request such that the header data identifies

the source gateway, and the interim gateway. In the same field of endeavor, Sasagawa et al.

(US#6,914,898) provides an IP communication network system, incorporating a gateway

function for executing a communication protocol conversion between a telephone network

(switched circuit network) and the Internet (IP packet switched network), for actualizing a

variety of communications such as voice communications and data communications between the

telephone network and the Internet. Sasagawa teaches an IP communication network, includes

the third processing unit, when the packet-assembled media-corresponding data generated by the

second processing unit are the voice data or the facsimile data, may add a UDP header and an IP

header as the header data, and, when the packet-assembled media-corresponding data are the

essential data, may add a TCP header and an IP header as the header data. The third processing

unit, when the second media-corresponding data are the voice data or the facsimile data, may

remove the UDP header and the IP header added as the header data, and, when the second

media-corresponding data are the essential data, may remove the TCP header and the IP header

added as the header data (See Fig. 1; Col. 3, lines 6 plus).

It's also noted that, in VoIP communications, a header removal function is able to remove

a header of data packets, which are received via the IP network before they are forwarded to the

first terminal. A header removal function can be provided for instance in case the first terminal is

adapted to process only the payload of a data packet. Receiving Internet access server

determines from the destination address included in the header of the data packet that the

destination address is telephone, removes the header from the data packet and forwards the audio

stored in the payload to telephone device.

Regarding claims 6-9, they are method claims corresponding to the apparatus claims

above. Therefore, claims 6-9 are analyzed and rejected as previously discussed with respect

to the claims above.

One skilled in the art would have recognized the need for efficiently routing IP packets in

VoIP utilizing service gateway, and would have applied Sasagawa's novel use of the IP

communication interface device, and White's teaching of telephone service via the Internet to

users of the public telecommunications network into Fangman's system and method for IP

telephony including internal and external call sessions.   Therefore, It would have been obvious

to a person of ordinary skill in the art at the time of the invention was made to apply Sasagawa's

IP communication network system having a gateway function with communication protocol

conversion between a switched circuit network and a packet switched network including data

over TCP/IP and voice/fax over RTP, and White's internet telephone service into Fangman's

system and method for performing IP telephony including internal and external call sessions with

the motivation being to provide a method and system for routing voice calls over the diverse

networks.

Allowable Subject Matter

7.   Claim 5 is objected to as being dependent upon a rejected base claim, but would be

allowable if rewritten in independent form including all of the limitations of the base claim and

any intervening claims.

8.   The following is an examiner's statement of reasons for the indication of allowable subject

matter: The closest prior art of record fails to disclose or suggest wherein if the second call setup

attempt fails, the method further comprises: identifying a third-most optimal route; inserting new

header data into the data packets containing the call setup request, wherein the new header data

identifies the originating gateway connected with the third-most optimal route; sending the data

packets containing the call setup request to the originating gateway connected with the third-most optimal route; stripping off the header data identifying the originating gateway connected with the third-most optimal route from the data packets containing the call setup request; and making a third call setup attempt by sending the data packets containing the call setup request from the originating gateway connected with the thirst-most optimal route to the destination gateway, wherein if the third call setup attempt fails, the data packets containing the call setup request will be returned to the source gateway, as specifically recited in claims.

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Fangman et al. (US#7,068,647) show a system and method for routing IP packets.

The Fangman et al. (US#6,687,245) show a system and method for performing IP phone.

The Yang (US#7,088,723) show a system for enhancing a voice channel in VoIP.

The Sun et al. (US#2005/0063364) show a network call back data capture method/appa.

The Meempat et al. (US#6,904,017) show a method and apparatus to provide centralized call admission control and load balancing for a VoIP network.

The White et al. (US#2004/0174880) show a internet telephone service.

The Gleneck (US#2002/0041588) is cited to show a method and apparatus for network dialing for voice switching.

The Haskal (US#2001/0036172) show a wireless VoIP communication systems.

The Evslin et al. (US#6,842,427) show a method and apparatus for optimizing transmission of signals over packet switched data network.

The Voit et al. (US#6,292,481) show a inter carrier signaling and usage accounting architecture for internet telephony.

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

11.   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

Nov. 04, 2008

/Man Phan/

Primary Examiner, Art Unit 2419